

Medical Malpractice Important Notice

April 2004

IMPORTANT NOTICE

TO: All Insurers Offering Malpractice Insurance in the State of West Virginia

RE: Annual Rate Filing Requirement

This notice is being sent as a courtesy to help facilitate compliance with the new requirement for malpractice insurance carriers to make annual rate filings. In 2003, Section 3, Article 20B, Chapter 33 of the West Virginia Code was amended to require insurers offering malpractice insurance to make a rate filing on or before July 1 of each year and annually thereafter. The first filing is due on or before July 1, 2004. **Therefore, if a company has not made a rate filing within the last twelve months, it must make one by July 1, 2004.** A company that has made a rate filing within the last twelve months has twelve months from the date of that filing to make its next filing.

We interpret the statutory language to mean annual rate filings are required of carriers who have written premium only. If you do not have written premium during the twelve month period, no filing is required. If a company is not currently writing but begins to do so after the date of this letter, that company must make a rate filing no later than 90 days before becoming an active writer.

The statute does not require a rate adjustment, it requires a filing. This statute was enacted to enable the Insurance Commissioner to review the rates of each medical malpractice carrier on an annual basis. It will also assist in our efforts to ensure that rates are adequate, not excessive and not unfairly discriminatory.

Actual statutory language is on the back of this notice. If you have any questions, please contact the Rates and Forms Division at (304) 558-2094 ext. 136 or ext. 156.

Jane L. Cline

Insurance Commissioner

§33-20B-3. Rate filings

(a) On or before the first day of July, two thousand four and on the first day of July each year thereafter, or at such other time specified by the commissioner, every insurer offering malpractice insurance in this state shall make a rate filing, in accordance with the provisions of section four, article twenty of this chapter, regardless of whether any increase or decrease is indicated, pursuant to subsection (a), section four, article twenty of this chapter. The information furnished in support of a filing shall include: (i) The experience or judgment of the insurer or rating organization making the filing; (ii) its interpretation of any statistical data the filing relies upon; (iii) the experience of other insurers or rating organizations; (iv) the character and extent of the coverage contemplated; (v) the proposed effective date of any requested change and (vi) any other relevant factors required by the commissioner. When a filing is not accompanied by the information required by this section upon which the insurer supports the filing, the commissioner shall require the insurer to furnish the information and,

in that event, the waiting period prescribed by subsection (b) of this section shall commence as of the date the information is furnished.

A filing and any supporting information shall be open to public inspection as soon as the filing is received by the commissioner. Any interested party may file a brief with the commissioner supporting his or her position concerning the filing. Any person or organization may file with the commissioner a signed statement declaring and supporting his or her or its position concerning the filing. Upon receipt of any such statement prior to the effective date of the filing, the commissioner shall mail or deliver a copy of the statement to the filer, which may file a reply. This section is not applicable to any memorandum or statement of any kind by any employee of the commissioner.

(b) Every filing shall be on file for a waiting period of ninety days before it becomes effective. The commissioner may extend the waiting period for an additional period not to exceed thirty days if he or she gives written notice within the waiting period to the insurer or rating organization which made the filing that he or she needs the additional time for the consideration of the filing. Upon written application by the insurer or rating organization, the commissioner may authorize a filing which he or she has reviewed to become effective before the expiration of the waiting period or any extension of the waiting period. A filing shall be deemed to meet the requirements of this article unless disapproved by the commissioner within the waiting period or any extension thereof.

(c) No insurer shall make or issue a contract or policy of malpractice insurance except in accordance with the filings which are in effect for the insurer as provided in this article.